

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DENNIS DAYE
MICHAEL DENICTOLIS,
AND RICHARD COSTA,
Petitioners

v.

No. # 1:04-cv-12045RGS

KATHLEEN DENNEHY,
Respondent

PETITIONER'S MOTION FOR TRANSFER

Now come the petitioners Dennis Daye, Michael Denictolis, and Richard Costa, and pursuant to Local Rule 40.1(G), move this Honorable Court for an order to transfer this case to Judge Douglas P. Woodlock upon the adjudication of petitioners' Application for Leave to File Second and Successive Petition for Habeas Corpus Under 28 U.S.C. § 2254 filed in the United States Court of Appeals for the First Circuit on February 13, 2008. In support of this motion, the petitioners state:

- 1.) Petitioners' filed their first Petition for Habeas Corpus in this Court on July 6, 1995 (docket number 1:95-cv-11442). This case was assigned to the Honorable Douglas P. Woodlock.
- 2.) Judge Woodlock denied petitioners' first habe petition on September 23, 1997 and issued an extensive opinion.
- 3.) Any second petition should have been filed as a related case to the case in which Judge Woodlock issued his opinion (docket number 1:95-cv-11442).

- 4.) Petitioners filed a second petition in this court on September 22, 2004 (docket number 1:04-cv-12045). The case was assigned to the Honorable Richard G. Stearns.
- 5.) This case is related to docket number 95-cv-11442 in that the parties are the same, and the petitioners are seeking relief for their underlying life sentences.
- 6.) If the Court is inclined to transfer this case to Judge Woodlock, in the interest of judicial economy, it should be stayed until the First Circuit decides the petitioner's Application for Leave to File Second and Successive Petition for Habeas Corpus.

WHEREFORE the petitioners respectfully request that this Honorable Court transfer this case to Judge Douglas P. Woodlock and that it be stayed until the adjudication of petitioners' Application for Leave to File Second and Successive Petition for Habeas Corpus Under 28 U.S.C. § 2254 by the United States Court of Appeals for the First Circuit.

Respectfully Submitted,
MICHAEL DENICTOLIS,
RICHARD COSTA,
DENNIS DAYE
By Their Attorney

/s/ Rosemary Scapicchio
Rosemary Curran Scapicchio
Four Longfellow Place
Suite 3703
Boston, Massachusetts 02114
(617) 263-7400
BBO # 558312

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each party and upon any party appearing pro se by first class mail, postage prepaid or by hand delivery.

Dated: 2/27/08

Signed: Adam J. Foss